

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 16TH NOVEMBER 2007 / 25TH KARTHIKA 1929

WP(C).No. 33928 of 2007(L)

OS.43/1993 of PRL.S.C.,THALASSERY

PETITIONERS:

**1. C.K.MOOSA,
AGED 60 YEARS,S/O. MUHAMMED
NO OCCUPATION RESIDING AT MUTTAM]P.O. VENGARA,
KANNUR DISTRICT.**

**2. C.K.KUNHAMU,
AGED 55 YEARS,S/O. MUHAMMED
HALEEMA MANZIL, MUTTAM
VENGARA, KANNUR DISTRICT.**

**BY ADV. SRI.C.KHALID
SRI.N.GOPINATHA PANICKER
SRI.R.O.MUHAMED SHEMEEM
SRI.T.P.SAJID**

RESPONDENTS:

**1. BANK OF BARODA
HAVING ITS HEAD OFFICE AT MANDVI, BARODA
REPRESENTED BY THE BRANCH MANAGER OF
BANK OF BARODA ,REPRESENTED BY THE BRANCH
MANAGER OF BANK OF BARODA
AT TELLICHERRY P.O.,TELLICHERRY.**

**2. CEKAY STORES, KHALEEF STREET,
NEW SQUARE, MUSLAM-AHAMADRO, ALMARI BUILDINGS
SHOP NO.9, ABU DHABI, U.A.E.,REPRESENTED BY THE
MANAGING PARTNER, HUSSAN ASLAM SAID, AGED ABOUT
45 YEARS, FATHERS NAME NOT KNOWN TO THE PETITIONER
KHALEEF STREET, NEW SQUARE, ABU DHABI, U.A.E.**

**3. MIDDLE EAST RESTAURANT AT LIWA STREET
MUHAMMED SHEREEF HUSSAIN BUILDING,ABU DHANI,UAE
REPRESENTED BY THE MANAGING PARTNER,HUSSAIN MACY
AGED ABOUT 50 YEARS, FATHERS NAME NOT KNOWN THE
PETITIONER MUHAMMED SHEREEF HUSSAIN BUILDING
ABU DHABI, U.A.E**

**4. O.MOHAMOOD, AGED 35 YEARS,
S/O.MAYANKUTTY, CHEERAN HOUSE, MATTOOL NORTH
P.O. MATTOOL,KANNUR DISTRICT.**

BY

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 16/11/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

M.N. KRISHNAN, J.

= = = = =

W.P.C. NO. 33928 OF 2007

= = = = =

Dated this the 16th day of November, 2007.

J U D G M E N T

This writ petition is filed with a prayer to call for the records in O.S.43/93 and declare that the said Court has no jurisdiction to entertain a suit to enforce foreign judgment and for a further direction to the Subordinate Judge to dismiss the suit or quash Ext.P1 plaint. I am afraid that this prayer cannot be entertained by this Court at this stage. When a suit is instituted before a competent Court of civil jurisdiction and when there is objection for the defendants, the law provides various methods whereby the very maintainability of the suit can be challenged before that Court. Therefore, the question whether the suit is maintainable or not is a question that can be decided by the said Court. Therefore, I give liberty to the writ petitioner to move an application before the trial court questioning the

W.P.C 33928 OF 2007

-:2:-

maintainability of the suit and the Court on hearing the counsel for the petitioner as well as the plaintiff decide the matter in accordance with law.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

ul/-